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1 William D. Sheldon, State Bar No. 02347 2004 OCT -7 P 3: 20
2 STATE COMPENSATION FUND OF ARIZONA
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4 Phoenix, Arizona 85012-3009
5 Phone: (602) 631-2213
6 Fax: (602) 631-2065
7 Counsel for Plaintiffs

AZ CORP COMMISSION
DOCUMENT CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

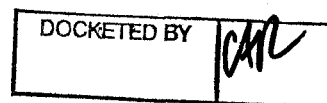
9 MARC SPITZER, Chairman
10 WILLIAM A. MUNDELL
11 JEFF HATCH-MILLER
12 MIKE GLEASON
13 KRISTIN K. MAYES

DOCKET NO. T-03023A-04-0317

NOTICE OF FILING AFFIDAVIT OF
AUDREY COLE

Arizona Corporation Commission
DOCKETED

OCT - 7 2004



14 IN THE MATTER OF THE APPLICATION
15 OF WINSTAR COMMUNICATIONS OF
16 ARIZONA, LLC FOR AUTHORITY TO
17 DISCONTINUE CERTAIN SERVICES IN
18 ARIZONA.

16 SCF of Arizona submits the attached Affidavit of Audrey Cole together with a
17 summary of overdue and unpaid billings to Winstar for use of rented space at SCF. The
18 space includes two areas: rooftop of the Abacus Building, 3031 N. 2nd Street, upon
19 which Winstar has erected a substantial steel structure and attached antennae in the form
20 of "dishes" for their wireless service; a room in the underground parking garage that is
21 used to house active electronic equipment. These items were in support of Winstar's
22 cellular telecommunications operation in Arizona. The electricity to this operation was
23 kept, at Winstar's request, in place despite Winstar's failure and refusal to make rent
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STATE COMPENSATION FUND OF ARIZONA
3030 NORTH 3rd STREET
PHOENIX, ARIZONA 85012-3009
TELEPHONE (602) 631-2048
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1 payments. Winstar did continue to pay the amount billed for electricity until the end of
2 August.

3
4 Winstar has alleged that it has more than one corporate entity operating in
5 Arizona, one of which services a contract with the federal government. It appears that
6 both Winstar and ACC staff are of the opinion that this operation does require oversight
7 by the Arizona Corporation Commission, and that Winstar's default on payment for the
8 use of space and equipment to support its now inoperative public telecommunications
9 service is irrelevant to the ACC's consideration of Winstar's Certificate of Convenience
10 and Necessity. SCF's concern is that Winstar currently owes more than \$26,000 in
11 rents for the past six months, has avowed that it will not honor the remaining five years
12 of the lease and will not pay for the removal of the steel structure on SCF's roof
13 (approximately \$30,000) due to a lack of financial resources. SCF understands that the
14 Arizona Corporation Commission may not have jurisdiction to grant any type of relief
15 to SCF, but offers this material as it appears to be germane to the concerns expressed in
16 Administrative Law Judge Pope's Procedural Memoranda of September 29, 2004 and
17 the matter heard before Judge Pope on October 4, 2004.
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1 DATED this 5 day of October, 2004.

2 STATE COMPENSATION FUND OF ARIZONA
3 James F. Crane, Vice President and
4 General Counsel

5 By: 

6 William D. Sheldon, State Bar No. 02347
7 3030 N. 3rd Street
8 Phoenix, AZ 85012
Attorneys for Plaintiffs

9 COPIES of the foregoing mailed
10 this 6th day of October, to:

11 Michael W. Patten
12 Hoshka Heyman & DeWulf, PLC
13 One Arizona Center
14 400 E. Van Buren St., Ste. 800
Phoenix, Arizona 85004

15 Timothy J. Sabo, Esq.
16 ARIZONA CORPORATION COMMISSION
17 1200 W. Washington St.
Phoenix, Arizona 85007

18 By: 

19 Samantha Halstead
20 Secretary to William D. Sheldon, Esq.

William D. Sheldon, State Bar No. 02347
 Bobbie J. Rasmusson, State Bar No. 018888
 STATE COMPENSATION FUND OF ARIZONA
 3030 North Third Street
 Phoenix, Arizona 85012-3009
 Phone: (602) 631-2213
 Fax: (602) 631-2065
 Counsel for Plaintiffs

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
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MIKE GLEASON
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DOCKET NO. T-03023A-04-0317

AFFIDAVIT OF AUDREY COLE

**IN THE MATTER OF THE APPLICATION
 OF WINSTAR COMMUNICATIONS OF
 ARIZONA, LLC FOR AUTHORITY TO
 DISCONTINUE CERTAIN SERVICES IN
 ARIZONA.**

STATE OF ARIZONA)
) ss.
 County of Maricopa)

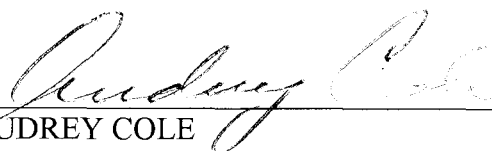
I, Audrey Cole, being first duly sworn upon my oath, depose and state:

1. I am an employee and agent of SCF of Arizona. My responsibilities as an employee of SCF of Arizona include oversight of billing on leases.

2. I have personally reviewed the billing and receipts relating to Winstar's lease of space at SCF of Arizona on a monthly basis throughout the period of the lease.

3. That attached is a true and accurate summary of the amounts billed, amounts paid and arrearages for Winstar's lease of space at SCF from January 1, 2004 to October 4, 2004.

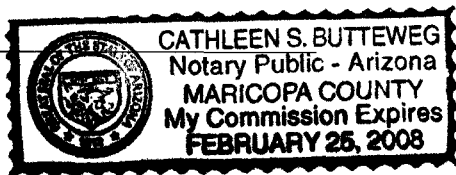
DATED this 4th day of October, 2004.


AUDREY COLE

Before me this 4th day of October, 2004, personally appeared Cynthia Ann Allen, Custodian of Records of the above-named company/individual, who signed the same for the purpose therein contained.


NOTARY PUBLIC

My Commission Expires:





State Compensation Fund
2004 Rental Billing Summary
ABACUS Building

WINSTAR WIRELESS, INC.
2350 Corporate Park Drive
Herndon, VA 20171

Attn: LEASE ADMINISTRATOR

12/31/03 (Previous Balance for 2003)

Winstar Wireless	(2,277.55)
Winstar Wireless (Electric)	0.00
Total	(2,277.55)

	A/R January TOTAL	January Payments	Net
Winstar Wireless	3,805.87	3,805.87	(2,277.55)
Winstar Wireless (Electric)	460.78	460.78	
Total	4,266.65	4,266.65	(2,277.55)

	A/R February TOTAL	February Payments	Net
Winstar Wireless	3,805.87	3,805.87	(2,277.55)
Winstar Wireless (Electric)	463.80		463.80
Total	4,269.67	3,805.87	(1,813.75)

AUDREY COLE
REALTY MANAGEMENT
(602) 241-8500

	A/R March TOTAL	March Payments	Net
Winstar Wireless	3,805.87	3,805.87	(2,277.55)
Winstar Wireless (Electric)	397.36		861.16
Total	4,203.23	3,805.87	(1,416.39)

	A/R April TOTAL	April Payments	Net
Winstar Wireless	3,805.87	0.00	1,528.32
Winstar Wireless (Electric)	234.28	0.00	1,095.44
Total	4,040.15	0.00	2,623.76

	A/R May TOTAL	May Payments	Net
Winstar Wireless	3,805.87	00.00	5,334.19
Winstar Wireless (Electric)	336.96	336.96	1,095.44
Total	4,142.83	336.96	6,429.63

	A/R June TOTAL	June Payments	Net
Winstar Wireless	3,805.87	0.00	9,140.06
Winstar Wireless (Electric)	382.26	800.76	676.94
Total	4,188.13	800.76	9,817.00

	A/R July TOTAL	July Payments	Net
Winstar Wireless	3,805.87	0.00	12,945.93
Winstar Wireless (Electric)	418.50	418.50	676.94
Total	4,224.37	418.50	16,622.87

	A/R August TOTAL	August Payments	Net
Winstar Wireless	3,805.87	0.00	16,751.80
Winstar Wireless (Electric)	581.76	581.76	676.94
Total	4,387.63	581.76	17,428.74

	A/R September TOTAL	September Payments	Net
Winstar Wireless	3,805.87	0.00	20,557.67
Winstar Wireless (Electric)	607.98	0.00	1,284.92
Total	4,413.85	0.00	21,842.59

	A/R October TOTAL	October Payments	Net
Winstar Wireless	3,805.87	0.00	24,363.54
Winstar Wireless (Electric)	654.59	0.00	1,939.51
Total	4,460.46	0.00	26,303.05

Total Past Due: \$26,303.05

AUDREY COLE
REALTY MANAGEMENT
(602) 241-8500